

[First Reprint]

SENATE, No. 2030

STATE OF NEW JERSEY
212th LEGISLATURE

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Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

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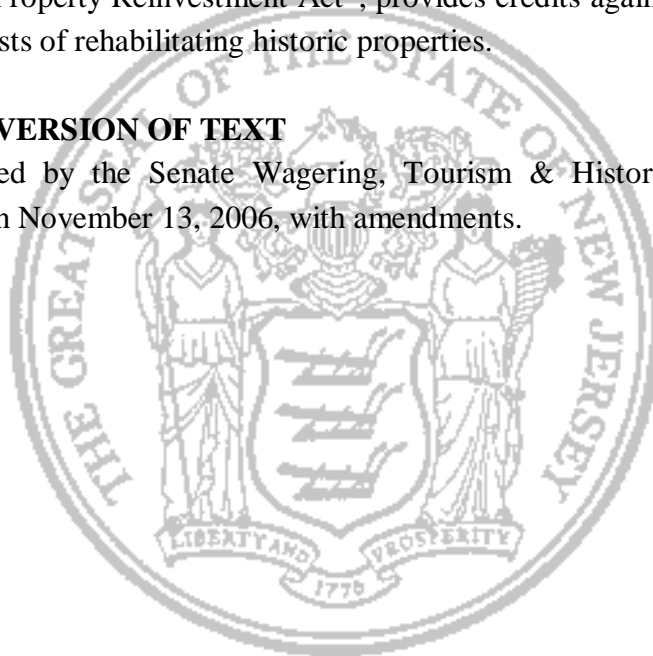
**Senators Littell, Turner, Weinberg, Allen, Bark, Bucco, Coniglio, Doria,
Gormley, Kavanaugh, Lance, Sarlo, Sweeney, Vitale, Karcher, T.Kean and
Scutari**

SYNOPSIS

“Historic Property Reinvestment Act”; provides credits against certain taxes for certain costs of rehabilitating historic properties.

CURRENT VERSION OF TEXT

As reported by the Senate Wagering, Tourism & Historic Preservation Committee on November 13, 2006, with amendments.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT providing credits against certain taxes for certain costs of
2 rehabilitating historic properties, and supplementing Title 13 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the “Historic
9 Property Reinvestment Act.”

10
11 2. As used in this act:

12 “Cost of rehabilitation” means the consideration given, valued in
13 money, whether given in money or otherwise, for the materials and
14 services which constitute the rehabilitation.

15 “Director” means the Director of the Division of Taxation in the
16 Department of the Treasury.

17 “New Jersey S corporation” means the same as the term is
18 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

19 “Officer” means the State Historic Preservation Officer or the
20 official within the State designated by the Governor or by statute in
21 accordance with the provisions of the "National Historic
22 Preservation Act," Pub.L.89-665 (16 U.S.C. s.470 et seq.), to act as
23 liaison for the purpose of administering historic preservation
24 programs in the State.

25 “Partnership” means an entity classified as a partnership for
26 federal income tax purposes.

27 “Principal residence” means a one- or two-family homestead
28 actually and continually occupied by an individual as the
29 individual’s permanent residence, as distinguished from a vacation
30 home, property owned and rented or offered for rent by the
31 individual, and other secondary real property holdings, except that
32 the permanent residence of military personnel called to active duty
33 shall be considered to be a principal residence so long as the
34 individual maintains ownership of the residence for which the credit
35 is sought.

36 “Property” means a structure, including its site improvements
37 and landscape features, assessed as real property, and used for a
38 residential purpose, residential rental purpose, commercial purpose,
39 or any combination thereof.

40 “Qualified property” means a property located in the State of
41 New Jersey that is:

42 (a) (i) individually listed, or located in a district listed on the
43 National Register of Historic Places in accordance with the
44 "National Historic Preservation Act," Pub.L.89-665 (16 U.S.C.
45 s.470 et seq.), or on the New Jersey Register of Historic Places

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SWT committee amendments adopted November 13, 2006.

1 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
2 individually designated, or located in a district designated, by the
3 Pinelands Commission as a historic resource of significance to the
4 Pinelands in accordance with the Pinelands comprehensive
5 management plan adopted pursuant to the "Pinelands Protection
6 Act," P. L.1979, c.111 (C.13:18A-1 et seq.), and

7 (ii) if located within a district, certified by either the officer or
8 the Pinelands Commission, as appropriate, as contributing to the
9 historic significance of the district; or

10 (b) (i) individually identified or registered, or located in a
11 district composed of properties identified or registered, for
12 protection as significant historic resources in accordance with
13 criteria established by a municipality in which the property or
14 district is located if the criteria for identification or registration has
15 been approved by the officer as suitable for substantially achieving
16 the purpose of preserving and rehabilitating buildings of historic
17 significance within the jurisdiction of the municipality, and

18 (ii) if located within a district, certified by the officer as
19 contributing to the historic significance of the district.

20 "Rehabilitation" means the repair or reconstruction of the
21 exterior or interior of a qualified property to make an efficient
22 contemporary use possible while preserving the portions or features
23 of the property that have significant historical, architectural, and
24 cultural values.

25 "Rehabilitation of the interior of the qualified property" means
26 the repair or reconstruction of the structural or substrate
27 components and electrical, plumbing, and heating components
28 within the interior of a qualified property.

29 "Selected rehabilitation period" means a period of 24 months the
30 beginning of such period is chosen by the business entity during
31 which, or parts of which, a rehabilitation is occurring or a period of
32 60 months if a rehabilitation is reasonably expected to be completed
33 in distinct phases set forth in written architectural plans and
34 specifications completed before 'or during' the physical work on
35 the rehabilitation **'[begins]'**.

36
37 3. a. An individual, upon 'successful' application to the officer
38 **'[before the start of the physical work on the rehabilitation]'**, shall
39 be allowed a credit against the tax otherwise due pursuant to
40 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
41 paid by the individual for the rehabilitation of a qualified property
42 that the individual owns and occupies as the individual's principal
43 residence for a period of twelve consecutive months following the
44 completion of the rehabilitation, provided that (1) the cost of
45 rehabilitation is in an amount not less than 50 percent of the
46 equalized assessed value of the structure for local real estate tax
47 purposes as indicated on the most recent property tax bill for the

1 qualified property prior to the start of the rehabilitation, ¹and¹ that
2 (2) ¹the cost for the rehabilitation of the interior of the qualified
3 property does not exceed 50¹ for the purpose of calculating the
4 amount of the total credit, no more than 60¹ percent of the total cost
5 of rehabilitation ¹], and that (3) the physical work on the
6 rehabilitation has not commenced prior to the approval by the
7 officer of the initial tax credit application¹ shall be attributable to
8 interior rehabilitation¹.

9 If more than one individual own a qualified property and at least
10 one of the owners occupies the qualified property as the owner's
11 principal residence for a period of twelve consecutive months
12 following the completion of the rehabilitation, each owner shall be
13 allowed a credit against the tax otherwise due pursuant to
14 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
15 paid by that owner for the rehabilitation of a qualified property,
16 provided that (1) the total cost of rehabilitation of the qualified
17 property borne by all owners is in an amount not less than 50
18 percent of the equalized assessed value of the structure for local real
19 estate tax purposes as indicated on the most recent property tax bill
20 for the qualified property prior to the start of the rehabilitation,
21 ¹and¹ that (2) ¹the cost for the rehabilitation of the interior of the
22 qualified property does not exceed 50¹ for the purpose of
23 calculating the amount of the total credit, no more than 60¹ percent
24 of the total cost of rehabilitation of the qualified property borne by
25 all owners ¹], and that (3) the physical work on the rehabilitation
26 has not commenced prior to the approval by the officer of the initial
27 tax credit application¹ shall be attributable to interior
28 rehabilitation¹.

29 b. The amount of the credit allowable under this section shall be
30 applied against the tax otherwise due pursuant to N.J.S.54A:1-1 et
31 seq. during the taxable year in which the officer issues the tax credit
32 certification to be attached by the individual to the individual's tax
33 return. The director shall determine the order in which the credit
34 allowed under this section and any other credit permitted by law
35 shall be applied against the individual's amount of tax due. If the
36 amount of the credit exceeds the individual's tax liability, that
37 amount of excess shall not be considered an overpayment for the
38 purposes of N.J.S.54A:9-7, but instead may be carried over, if
39 necessary, to the four taxable years following the taxable year for
40 which the credit was allowed.

41 c. The cumulative amount of credit granted under this section
42 for the cost of rehabilitation of a specific qualified property shall
43 not exceed \$25,000 within any ten-year period.

44
45 4. a. A business entity, upon ¹successful¹ application to the
46 officer ¹before the start of the physical work on the

1 rehabilitation¹, shall be allowed a credit against the tax otherwise
2 due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the tax
3 imposed on insurers generally, pursuant to P.L.1945, c.132
4 (C.54:18A-1 et. seq.), or the tax imposed on marine insurance
5 companies pursuant to R.S.54:16-1 et. seq., for 25 percent of the
6 cost of rehabilitation paid by the business entity for the
7 rehabilitation of a qualified property, if the cost of rehabilitation
8 during a business entity's selected rehabilitation period is not less
9 than the greater of (1) the adjusted basis of the structure of the
10 qualified property used for federal income tax purposes as of the
11 beginning of the business entity's selected rehabilitation period, or
12 (2) \$5,000. The amount of the credit claimed in any accounting or
13 privilege period shall not reduce the amount of the tax liability to
14 less than the statutory minimum provided in subsection (e) of
15 section 5 of P.L.1945, c.162 (C.54:10A-5). ¹['The officer shall not
16 approve any application for a tax credit under this section if the
17 physical work on the rehabilitation has commenced prior to the
18 director's approval of the application.']¹

19 b. ¹['A partnership or a New Jersey S corporation shall not be
20 allowed a credit under this section directly, but the'] The¹ amount of
21 credit 'granted,' or 'recognized through a' tax credit transfer
22 certificate acquired pursuant to section 5 of this act ¹, to a
23 partnership, limited liability company, New Jersey S corporation,
24 multiple owners, or qualifying long-term leaseholders of the
25 property.¹ shall be passed through to the partners, members,
26 shareholders, or owners respectively, either in proportion to their
27 ownership interest in the entity or as the partners, members,
28 shareholders, or owners mutually agree as provided in an executed
29 document detailing the alternate distribution method.

30 c. A business entity may claim a credit under this section during
31 the accounting or privilege period (1) in which it makes the final
32 payment for the cost of the rehabilitation if the business entity has
33 chosen a selected rehabilitation period of 24 months, or (2) in which
34 a distinct project phase of the rehabilitation is completed if the
35 business entity has chosen a selected rehabilitation period of 60
36 months. The credit may be claimed against any tax liability
37 otherwise due after any other credits permitted pursuant to law have
38 been applied. The amount of credit claimed in an accounting or
39 privilege period that cannot be applied for that accounting or
40 privilege period due to limitations in this section may be carried
41 over, if necessary, to the nine accounting or privilege periods
42 following the accounting or privilege period for which the credit
43 was allowed.

44
45 5. a. The officer shall, in cooperation with the director,
46 establish and administer a gross income tax credit transfer
47 certificate program, a corporation business tax credit transfer

1 certificate program, and an insurance premiums tax credit transfer
2 certificate program to enable individuals and business entities with
3 unused, otherwise allowable amounts of tax credits issued pursuant
4 to this act to exchange these credits, in whole or in part, for private
5 financial assistance prior to the expiration of the tax credit.

6 ¹["The officer shall, in cooperation with the director, develop
7 criteria for the approval or disapproval of applications by
8 individuals and business entities for tax credit transfer certificates
9 under this act, and shall thereafter review and approve applications
10 for such tax credit transfer certificates in a manner that can best
11 stimulate and encourage the preservation of historic structures in
12 this State.]"¹

13 A certificate issued by the officer shall include a statement
14 waiving the rights of the individual to whom or the business entity
15 to which the tax credit has been granted to claim that amount of the
16 credit against any tax liability.

17 b. An individual or business entity holding an unused, otherwise
18 allowable tax credit issued pursuant to this act may apply to the
19 officer for a tax credit transfer certificate pursuant to subsection a.
20 of this section. Upon receipt thereof, the individual or the business
21 entity may sell or assign, in full or in part, the tax credit transfer
22 certificate to another taxpayer in exchange for private financial
23 assistance to be provided by the purchaser or assignee of the tax
24 credit transfer certificate to the seller thereof. ¹["The amount of
25 private financial assistance shall not be below a uniform percentage,
26 as periodically determined by the officer, of the face value of the
27 tax credit transfer certificate.]"¹ The purchaser or assignee of the
28 tax credit transfer certificate may apply the face value of the tax
29 credit transfer certificate acquired against the purchaser's or
30 assignee's applicable tax liability by claiming the tax credit on the
31 purchaser's or assignee's gross income tax, corporation business tax
32 or insurance premiums tax return with the corresponding tax credit
33 transfer certificate accompanying the tax return.

34 c. The purchaser or assignee of a tax credit transfer certificate ¹,
35 together with the tax credit transferor,¹ shall be liable for the tax
36 credit amount to be recaptured if section 7 of this act applies.

37
38 6. a. The officer shall, in consultation with the director,
39 promulgate rules and regulations in accordance with the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), as the officer deems necessary to administer the provisions of
42 this act, including but not limited to rules establishing
43 administrative fees to implement the provisions of this act and the
44 setting of an annual application submission date ¹["that will ensure
45 that all applications for a tax credit pursuant to this act will be
46 reviewed so as to allow individuals and business entities to

1 commence the rehabilitation of a qualified property by the January
2 1 next following the application submission date¹.

3 b. For every tax credit allowed pursuant to sections 3 and 4 of
4 this act, the officer shall certify to the director the total cost of
5 rehabilitation; that the property meets the definition of qualified
6 property; that the rehabilitation has been completed in substantial
7 compliance with the requirements of the Secretary of the Interior's
8 Standards for Rehabilitation pursuant to section 67.7 of title 36,
9 Code of Federal Regulations; and, if applicable, that no more than
10 ¹~~50~~ 60 percent of the cost of rehabilitation which will be used to
11 calculate the credit is for the rehabilitation of the interior of the
12 qualified property. The individual or business entity shall attach the
13 certification to the tax return on which the individual or business
14 entity claims the credit.

15 c. The total amount of credits approved by the officer pursuant
16 to this act shall not exceed \$15,000,000 in fiscal year 2008,
17 \$25,000,000 in fiscal year 2009, \$40,000,000 in fiscal year 2010,
18 and \$50,000,000 in fiscal year 2011 and thereafter.

19 The officer shall devise criteria for allocating tax credit amounts
20 if the approved amounts combined exceed the total amount in fiscal
21 years 2008 through 2011, including rules that allocate over multiple
22 fiscal years a single credit amount granted in excess of \$2,000,000.
23 The criteria shall include a project's historic importance, positive
24 impact on the surrounding neighborhood, economic sustainability,
25 geographic diversity, and consistency with Statewide growth and
26 development policies and plans.

27 d. In any fiscal year, 33 percent of the total monetary amount of
28 tax credits approved pursuant to this act shall be granted for the
29 rehabilitation of qualified properties pursuant to section 3 of this
30 act, and 66 percent of the total monetary amount of tax credits
31 approved pursuant to this act shall be granted for the rehabilitation
32 of qualified properties pursuant to section 4 of this act. ¹Any
33 unallocated or recaptured portion of the tax credits during any year
34 pursuant to section 3 or 4 of this act, may be carried over and
35 reallocated in succeeding years.¹

36
37 7. a. The officer, in collaboration with the director, shall adopt
38 rules for the recapture of an entire or partial tax credit amount
39 allowed under this act. The rules shall require the officer to notify
40 the director of the recapture of an entire or partial tax credit amount.
41 The recapture of funds shall be subject to the State Uniform Tax
42 Procedure Law, R.S.54:48-1 et seq. and recaptured funds shall be
43 deposited in the General Fund of the State.

44 b. If, before the end of five full years after the completion of the
45 rehabilitation of the qualified property, an individual who or a
46 business entity that has been allowed a tax credit pursuant to section
47 3 or 4 of this act either disposes of a qualified property or modifies
48 the architectural components of the rehabilitated qualified property

1 so that it ceases to meet the requirements for the rehabilitation of a
2 qualified property as defined in this act, then the tax liability of the
3 individual or business entity for that taxable year or accounting or
4 privilege period shall be increased by the following percentage of
5 that portion of the original tax credit amount that the officer now
6 disallows:

7 (1) 100 percent of the disallowed tax credit amount if the action
8 causing the disallowance occurs within one full year after the
9 rehabilitation's completion;

10 (2) 80 percent of the disallowed tax credit amount if the action
11 causing the disallowance occurs between the first and second full
12 year after the rehabilitation's completion;

13 (3) 60 percent of the disallowed tax credit amount if the action
14 causing the disallowance occurs between the second and third full
15 year after the rehabilitation's completion;

16 (4) 40 percent of the disallowed tax credit amount if the action
17 causing the disallowance occurs between the third and fourth full
18 year after the rehabilitation's completion; and

19 (5) 20 percent of the disallowed tax credit amount if the action
20 causing the disallowance occurs between the fourth and fifth full
21 year after the rehabilitation's completion.

22 ¹Any portion of the tax credit that the individual or business
23 entity has not yet used at the time of the disallowance by the officer
24 shall be deemed void.¹ If the individual or business entity whose
25 credit amount is disallowed has transferred the credit amount to
26 another individual or business entity by means of a tax credit
27 transfer certificate issued pursuant to section 5 of this act, then the
28 purchaser or assignee of the tax credit transfer certificate ¹, together
29 with the tax credit transferor,¹ shall be held liable for the credit
30 amount to be recaptured.

31 c. In the case of a business entity that has chosen a selected
32 rehabilitation period of 60 months, if the architectural plans change
33 in the course of the phased rehabilitation project so that the
34 rehabilitation of the qualified property would, upon the
35 rehabilitation's completion, no longer qualify for a tax credit
36 pursuant to the requirements of this act, then the business entity's
37 tax liability for that accounting or privilege period shall be
38 increased by the full amount of the tax credit that the officer had
39 previously granted upon the completion of a distinct prior project
40 phase that the business entity has applied against its tax liability in a
41 prior accounting or privilege period. Any portion of the tax credit
42 that the business entity has not yet used at the time of the
43 disallowance by the officer shall be deemed void. If the business
44 entity whose credit amount is disallowed has transferred the credit
45 amount to another individual or business entity by means of a tax
46 credit transfer certificate issued pursuant to section 5 of this act,
47 then the purchaser or assignee of the tax credit transfer certificate ¹,

1 together with the tax credit transferor,¹ shall be held liable for the
2 credit amount to be recaptured.

3
4 8. On or before December 31, 2011, the officer, in consultation
5 with the director, shall prepare and submit a written report
6 regarding the number and total monetary amount of tax credits
7 granted for the rehabilitation of qualified properties pursuant to
8 sections 3 and 4 of this act, the geographical distribution of the
9 credits granted, a summary of the tax credit transfer program
10 established pursuant to section 5 of this act, an evaluation of
11 the effectiveness of the tax credits provided pursuant to this
12 act in promoting the rehabilitation of historic properties,
13 recommendations for administrative or legislative changes to
14 increase the effectiveness of the program, and any other information
15 that the officer or the director may deem useful or appropriate. This
16 report shall be submitted to the Governor and, pursuant to section 2
17 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

18
19 9. This act shall take effect immediately and section 3 shall
20 apply to taxable years beginning on or after January 1 next
21 following the date of enactment of this act, and section 4 shall apply
22 to accounting or privilege periods beginning on or after July 1 next
23 following the date of enactment of this act.